

§ 993.57

the requirement as to setaside reflecting average marketable content of receipts is not essential to achieve program objectives for the crop of a particular season, it may be eliminated for that season by the committee, with the approval of the Secretary. As a prerequisite for making this determination, the committee must find that the resultant setaside procedures assure that the trade demand for manufacturing prunes, as well as prunes for consumption as prunes, will be met. The salable prunes permitted to be disposed of by any handler in accordance with the provisions of this part shall be deemed to be that handler's quota fixed by the Secretary within the meaning of section 8a(5) of the act.

[30 FR 9799, Aug. 8, 1965, as amended at 37 FR 862, Jan. 20, 1972]

EFFECTIVE DATE NOTE: At 68 FR 40757, July 9, 2003, §993.56 was suspended effective August 1, 2003 through July 31, 2008.

§ 993.57 Holding requirement and delivery.

Each handler shall at all times, hold, in his possession or under his control, in proper storage for the account of the committee, free and clear of all liens, the quantity of prunes necessary to meet his reserve obligation, less any quantity: (a) For which he has a temporary deferment pursuant to §993.58(a); (b) of prune plums (dried weight natural condition basis) diverted pursuant to §993.62 as shown on diversion certificates held by him, or credited by the committee against his reserve obligation; (c) disposed of by him under a sales contract of the committee; (d) delivered by him to the committee, or to a person designated by it, pursuant to its instructions; and (e) for which he is otherwise relieved by the committee of such responsibility to so hold prunes. No handler may transfer a reserve obligation but any handler may, upon notification to the committee arrange to hold reserve prunes on the premises of another handler or in approved commercial storage, under conditions of proper storage. The committee may, after giving reasonable notice, require a handler to deliver to it, or to a person designated by it, f.o.b. handler's warehouse or point of storage, reserve prunes held by him.

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The committee may require that such delivery consist of natural condition prunes or it may arrange for such delivery to consist of processed prunes.

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§ 993.58 Deferment of time for withholding.

(a) Compliance by any handler with the requirement of §993.57 for withholding reserve prunes may be temporarily deferred to any date desired by the handler, but not later than November 15 of the crop year, upon the execution and delivery by such handler to the committee of a written undertaking that on or prior to the desired date he will have fully satisfied his holding requirement. Such undertaking shall be secured by a bond or bonds to be filed with and acceptable to the committee in the amount or amounts specified, conditioned upon full compliance with such undertaking.

(b)(1) Each bond shall be provided by and at the handler's expense, with a surety or sureties acceptable to the committee, and shall be in an amount computed by multiplying the pounds of natural condition prunes for which deferment is desired by the bonding rate. Such bonding rate shall be established by the committee at a level sufficient to achieve the objectives of this part.

(2) In case a handler defaults in meeting his deferred withholding requirement, any funds collected by the committee from the bonding company through such default shall be used by the committee to purchase from handlers a quantity of natural condition prunes, up to but not exceeding the quantity on which default occurred. Purchases shall be made from prunes with respect to which the reserve obligation has been met, and shall be of grades, varieties, or sizes and in such containers as the committee specifies in consideration of available reserve prune outlets. Purchases shall be at prices determined to be appropriate by the committee and if more prunes are offered than required by the committee, it shall make the purchases from various handlers as nearly as

practicable in proportion to the quantity of their respective offerings at the same price. The committee shall dispose of the prunes acquired as soon as practicable in the most favorable reserve prune outlets and shall deposit the proceeds from such sales, less committee expenses in connection with such transaction, with reserve pool funds for distribution to equity holders.

(3) If for any reason the committee is unable to purchase a quantity of prunes as large as the quantity of reserve prunes in default by the handler, any remaining balance of funds received because of the default less expenses of the committee, shall be deposited with reserve pool funds for distribution to equity holders.

(c) A handler who has defaulted on his bond shall be credited on his reserve obligation with, and his holding requirement reduced by, that quantity of prunes represented by the sums collected but not more than the extent of his default.

EFFECTIVE DATE NOTE: At 68 FR 40757, July 9, 2003, §993.58 was suspended effective August 1, 2003 through July 31, 2008.

§ 993.59 Payment to handlers for services.

The committee shall pay handlers for necessary services rendered by them in connection with reserve prunes including, but not limited to, inspection, receiving, storing, grading, and fumigation, in accordance with a schedule of payments and conditions established by the Secretary after recommendation by the committee.

EFFECTIVE DATE NOTE: At 68 FR 40757, July 9, 2003, §993.59 was suspended effective August 1, 2003 through July 31, 2008.

PRODUCER DIVERSION

§ 993.62 Diversion privileges.

(a) *Prune plums.* The words *prune plums* as used in this section mean plums of a variety used in the production of prunes.

(b) *Voluntary principle.* No producer shall be required to divert all or any portion of the prune plums produced by him.

(c) *Authorization.* If, on the basis of a committee recommendation for diver-

sion operations, the availability of governing rules and procedures established by the Secretary after recommendation of the committee, and other information, the Secretary concurs that diversion operations should be permitted, he shall authorize such operations.

(d) *Diversion certificates.* After diversion operations are authorized, and subject to the applicable rules and procedures, any producer may divert prune plums of his own production for eligible purposes and receive from the committee a diversion certificate therefor: *Provided*, That diversion certificates for prune plums diverted by producer members of a cooperative marketing association shall be issued by the committee to the association if it so requests. To the extent permitted by the rules and procedures, the certificate may be submitted to any handler in lieu of reserve prunes and to the same extent the certificate shall entitle the handler to satisfy his reserve obligation. Only to the extent permitted by the rules and procedures, diversion certificates may be transferable among producers and handlers.

(e) *Eligible diversions.* Within such restrictions as may be prescribed in rules and procedures, diversion may be authorized for such dispositions as are not competitive with the normal marketing of prunes and prune products. Such eligible diversions may include: (1) Disposal of prune plums for nonhuman use; (2) leaving prune plums unharvested; and (3) such other methods of diversion as may be authorized. No diversion certificate shall be issued by the committee for prune plums which would not, under normal producer practices, be dried and delivered to a handler.

(f) *Nonparticipation in pool proceeds.* Any prune plums diverted pursuant to this section shall not be included in any reserve pool.

(g) *Payment of costs.* Prior to the issuance of a diversion certificate to a producer or a cooperative marketing association, the producer or association shall pay to the committee fees established to cover costs pertaining to the diversion.

[30 FR 9800, Aug. 6, 1965]